

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK *

ORIGINAL

DWAYNE HARVEY, PLAINTIFF

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

THE CITY OF NEW YORK, et. al., AND,
THE NEW YORK CITY POLICE DEPARTMENT,
QUEENS COUNTY DIVISION, POLICE OFFICER,
MUNRO, SHIELD #13600, 113th Pct. In His,
OFFICIAL CAPACITY; POLICE OFFICER,
KESSLER, SHIELD # 27043, In His
OFFICIAL CAPACITY.

Defendant(s).

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

CV 16-1649

US DISTRICT COURT E.D.N.Y.

★ APR - 1 2016 ★

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

MAUSEKOPF, NYN OFFICE

BLOOM, M.J.

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Mr. Dwayne Harvey
ID # _____
Current Institution RNDC FACILITY RIKERS ISLAND
Address 11-11 HAZEN STREET, EAST ELMHURST,
Ny 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name THE CITY OF NEW YORK, et. al., Shield # _____
Where Currently Employed _____
Address 100 CHURCH STREET
Ny Ny 10007 Dept. of Law

Defendant No. 2 Name NEW YORK CITY POLICE DEPT. Shield # _____
Where Currently Employed One Police Plaza
Address New York, Ny 10037

Defendant No. 3 Name Police Officer Munro Shield # 13600
Where Currently Employed 113th Pct, Queens Division
Address 167-02 Baisley Boulevard

Defendant No. 4 Name Police Officer Kessler Shield # 27043
Where Currently Employed 113Th Pct
Address 167 Baisley Boulevard

Defendant No. 5 Name _____ Shield # _____
Where Currently Employed _____
Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

N/A

B. Where in the institution did the events giving rise to your claim(s) occur?

N/A

C. What date and approximate time did the events giving rise to your claim(s) occur?

8/4/15 Approximately 2250 Hrs

D. Facts: On, August 4th, 2015, At about 11:05 P.M., At The InterSection of 111 Avenue and 146th Street, County of Queens, State of New York. The Plaintiff was Arrested For Drunk Driving, Inter-Alia, After failing a Series of Field Sobriety Test, Taken at the 112th & 113TH Pct(s). These Tests were Taken by, P.O. Kessler, at either Pct? Soon thereafter, P.O. Munro arrested the Plaintiff. The Plaintiff is physically disabled and could not take the walking test, also, could not properly blow, due to the illness of, (C.O.P.D.). Only one test result was listed, after (2 to 3) trys. It was claimed that a result of .082 of one percentum or more by weight of Alcohol was found in my blood. P.O. Kessler used a Machine known as an (INTOXILYZER 5000EN)("INTOXILYZER")(SEE: EXHIBIT (A):) FELONY COMPLAINT AND NUMEROUS CHARGES LISTED THEREIN. ALSO SEE: EXHIBIT (B): 113PCT INTOXILYZER/ALCOHOL ANALYZER -MODEL 5000EN (I.D.T.U. ()TEST()# 15Q1439. EXHIBIT (C): ARRESTING OFFICERS REPORT (I.D.T.U.), EXHIBIT (D): TECHNICIAN TEST REPORT, EXHIBIT (E): INTOXICATED EXAMINATION(2ND SHEET instruction), (EXHIBIT (F): INTOXICATION DRIVER EXAMINATION (2ND) AND; EXHIBIT (G): CRIMINAL TEST ANALYSIS.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

[SEE: KIMBERLY MCCAIN V. DISTRICT OF COLUMBIA, ET. AL, 2014 U.S. DIST. LEXIS 141734, CIVIL ACTION NO. 13-1589 (GK)]

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

N/A

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

N/A

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ___ No XX

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

N/A

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

N/A

Yes ____ No ____ Do Not Know ____

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

N/A

Yes ____ No ____ Do Not Know ____

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ____ No ____ N/A

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ____ No ____

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

N/A

1. Which claim(s) in this complaint did you grieve?

N/A

2. What was the result, if any?

N/A

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any: _____

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. The Defendant's collectively, committed negligence, Gross Negligence, Negligent Supervision, Intentional Infliction of Emotional Distress, and Violations of his Constitutional Rights pursuant to, 42 U.S.C. § 1983. The Plaintiff also claims, False Arrest, False Imprisonment, Unconstitutional Imprisonment, [U.S.C.A. Const. Amend(s), 4, 5, 6, 8 and 14].

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). For All The Causes of Actions that this Court finds defendants guilty of, A Total of \$500,000.00 Dollars, including, In both, Compensation & Punitive Damages, That this Court deems sufficient, last, that Pro-se Attorney's Fees be awarded (PLRA) 42 U.S.C. 1988, Costs, Fees and any Expenses Pro-se Plaintiff may, (+) 150% of any award.

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No XX

On
there
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

N/A

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____ N/A

4. Name of Judge assigned to your case _____ N/A

5. Approximate date of filing lawsuit _____ N/A

6. Is the case still pending? Yes _____ No _____ N/A

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____ N/A

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?
Yes _____ No XX

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26 day of FEBRUARY, 2016

Signature of Plaintiff

Dwayne Harvey

Inmate Number

441-150-6467

Institution Address

R.N.D.C. Facility

11-11 HAZEN ST.

F. ELMTWATER, NY

11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 26 day of FEBRUARY, 2016, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Dwayne Harvey